

NTSB Order No. EA-5010

Adopted by the NATIONAL TRANSPORTATION SAFETY BOARD
at its office in Washington, D.C.
on the 20th day of December, 2002

Respondent .

7519

airman certificates held by respondent for his alleged violation of section 61.59(a)(2) of the Federal Aviation Regulations, 14 C.F.R. Part 61.² For the reasons discussed below, the appeal will be denied.³

The Administrator's October 22, 2002 Emergency Order of Revocation alleged, among other things, the following facts and circumstances concerning the respondent:

1. At all times material herein you were and are now the holder of Commercial Pilot Certificate No. 2173446.
2. On or about May 10, 2002, you presented an Airman Certificate and/or Rating Application as a prerequisite to be eligible for an initial flight instructor practical test at Flagler County Airport, Bunnell, Florida.
3. When you presented your pilot logbook to Designated Pilot Examiner Shawn Knickerbocker, the pilot logbook did not contain a signed endorsement of an authorized instructor as required by 14 C.F.R. § 61.39(a)(6).
4. After you were informed that you did not meet the eligibility requirements for an initial flight instructor practical test in the absence of the signed endorsement in accordance with 14 C.F.R. § 61.39(a)(6), you departed but returned shortly thereafter and presented Designated Pilot Examiner Shawn Knickerbocker with an endorsement that purported to represent the signature of Rodney Barnett as the recommending flight instructor.

²FAR section 61.59(a)(2) provides as follows:

§ 61.59 Falsification, reproduction, or alteration of applications, certificates, logbooks, reports, or records.

(a) No person may make or cause to be made:

* * * *

(2) Any fraudulent or intentionally false entry in any logbook, record, or report that is required to be kept, made, or used to show compliance with any requirement for the issuance or exercise of the privileges of any certificate, rating, or authorization under this part....

³The Administrator has filed a reply opposing the appeal.

5. The signed endorsement that you presented was fraudulent or intentionally false in that the signature presented in the endorsement was not that of Rodney Barnett.
6. You made or caused to be made a fraudulent or intentionally false entry in a record for your pilot logbook, which you used in an effort to show compliance with the requirements of 14 C.F.R. § 61.39(a)(6). [⁴]

⁴FAR section 61.39(a)(6) provides as follows:

§ 61.39 Prerequisites for practical tests.

(a) Except as provided in paragraphs (b) and (c) of this section, to be eligible for a practical test for a certificate or rating issued under this part, an applicant must:

(1) Pass the required knowledge test within the 24-calendar-month period preceding the month the applicant completes the practical test, if a knowledge test is required;

(2) Present the knowledge test report at the time of application for the practical test, if a knowledge test is required;

(3) Have satisfactorily accomplished the required training and obtained the aeronautical experience prescribed by this part for the certificate or rating sought;

(4) Hold at least a current third-class medical certificate, if a medical certificate is required;

(5) Meet the prescribed age requirement of this part for the issuance of the certificate or rating sought;

(6) Have an endorsement, if required by this part, in the applicant's logbook or training record that has been signed by an authorized instructor who certifies that the applicant-

(i) Has received and logged training time within 60 days preceding the date of application in preparation for the practical test;

(ii) Is prepared for the required practical test; and

(iii) Has demonstrated satisfactory knowledge of the subject areas in which the applicant was deficient on the airman knowledge test....

7. By reason of the foregoing, you lack the qualifications to be the holder of any airman certificate.

The law judge found the essentially uncontradicted allegations in the complaint proved by a preponderance of the reliable, probative and credible evidence produced by the Administrator, which included the testimony of both the designated pilot examiner and the recommending instructor. The law judge also found the sanction of revocation for the intentional falsification to be consistent with both the Administrator's sanction guidance policy and Board precedent, citing Administrator v. Tankersley, NTSB Order No. EA-3276 (1991).⁵

We have reviewed the several arguments the respondent has advanced in support of his appeal, which largely ignore the law judge's analysis of the relevant issues and evidence. None of them demonstrates error in any of the law judge's findings and conclusions, either as to the credibility of the witnesses or the sufficiency of the proof presented on the record. More to the point, none of respondent's arguments compels any different judgment on the central issue in the case; namely, whether his admitted forgery of his flight instructor's signature on an endorsement he needed to be eligible to take a practical test constituted a violation of FAR section 61.59(a)(2). The law judge correctly ruled that it did, and the respondent's appeal

⁵For this reason we have no occasion to determine whether respondent was adversely surprised by reference to his recent enforcement violation history.

identifies no basis for disturbing that conclusion.⁶

ACCORDINGLY, IT IS ORDERED THAT:

1. The respondent's appeal is denied; and
2. The initial decision and the emergency order of revocation are affirmed.

CARMODY, Acting Chairman, and HAMMERSCHMIDT, GOGLIA, and BLACK, Members of the Board, concurred in the above opinion and order.

⁶Respondent repeats here, in different variations, a frivolous contention the law judge properly rejected; namely, respondent's argument that he did nothing wrong because his instructor simply overlooked making the endorsement FAR section 61.39(a)(6) requires. The issue, of course, is not whether the respondent was entitled to the missing endorsement, but whether his instructor had actually made one. Since he had not, respondent's attempt to dupe the examiner into thinking that the instructor had was dishonest, and the effort to pass off his forgery of the instructor's signature on the endorsement as the instructor's was fraudulent. Respondent's apparent inability to appreciate the objectionable nature of his conduct serves to underscore the propriety of the Administrator's assessment that he lacks the qualifications to hold an airman certificate.